IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.16546 of 2007

Dated: August 3, 2007

Between:

Kosuri Kanaka Durga, W/o. Veera Praja Naik,
Age: 55 years, Occ: Agriculture, D.No.67-21-4,
Lalbahadur Nagar, Kakinada – 3, East Godavari.

… Petitioner

And

The Secretary to the Government,
Government of A.P. (Land Acquisition)
Secretariat, Hyderabad, and others.

… Respondents

Order:

In this writ petition, petitioner questions the action of the respondents in initiating proceedings for acquisition of her land to an extent of Ac.2.00 cents and Ac.0.21 cents in Sy.Nos.9/2 and 17/2 respectively of Kakinada, Kakinada Urban Mandal, East Godavari District.

2. Heard learned counsel for the petitioner and learned

Government Pleader for Land Acquisition appearing on behalf of the respondents.

3. The second respondent has issued notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') on 31-05-2007, notifying the land of the petitioner referred above along with some other lands, totally admeasuring Ac.105.45 cents, for the purpose of providing house sites to weaker sections. In the said notification, the Revenue Divisional Officer, Kakinada was appointed by the District Collector to perform the functions of Collector under Section 5-A of the Act and therefore the enquiry as contemplated under Section 5-A of the Act is not dispensed with.

4. The grievance of the petitioner is that the subject land is a wetland and is being used for cultivation. There are other lands, which are suitable for the purpose of providing house sites. It is alleged that respondents have not obtained permission for conversion of the land from agricultural to non-agricultural purposes before notifying the same.

5. As much as enquiry under Section 5-A of the Act is not dispensed with, the petitioner can very well raise her objections in the said enquiry. The plea of the petitioner that no permission was obtained by the respondents for conversion of the land from agricultural to
non-agricultural purposes, cannot be accepted, as the land is not vested with the Government at this stage. In that connection, it is relevant to refer to Section 4(1) of the Act, which reads as under:

> "Whenever it appears to the appropriate Government, that land in any locality is needed or is likely to be needed for any public purpose or for a company a notification to that effect shall be published in the official Gazette and in two daily

> newspapers circulated in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [the last of the dates of such publication and giving of such public notice being hereinafter referred to as the date of the publication of the notification]."

6. Therefore, what is required to be done at the initial stage, is the publication of notification in the Official Gazette and newspapers for acquisition of the land required for a particular public purpose and the question of seeking conversion from agricultural to non-agricultural purposes will not arise unless the land vests with the Government after acquisition. As much as enquiry as contemplated under Section 5-A of the Act is yet to be conducted, I do not find any valid ground to grant the relief as prayed for.

7. The writ petition is accordingly dismissed keeping open to the petitioner to raise her objections in the enquiry under Section 5-A of the Act.

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JUSTICE R. SUBHASH REDDY.

August 3, 2007
MRR